

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ARNOLDO REYNA,

Plaintiff,

v.

No. CV 09-0842 JH/RLP

LEA COUNTY CORRECTIONAL FACILITY, et al.,

Defendant.

ORDER TO SHOW CAUSE

This matter is before the Court on a letter from Plaintiff that was entered on the docket as a motion to correct docket (Doc. 6), and on Plaintiff's Motion For Free Filing Fee (Doc. 8). In the motion to correct the docket, Plaintiff asserts that his supplemental complaint (Doc. 4) should have been filed as an initiating pleading and a separate case file opened. To the contrary, both the original and supplemental complaints name the same Defendants and assert claims for denial of medical treatment. The Clerk properly entered both documents on the same case docket. *See Pet Milk Co. v. Ritter*, 323 F.2d 586, 588 (10th Cir.1963) ("It is well settled that a district court has the power to . . . control its docket for the purpose of 'economy of time and effort for itself, for counsel, and for litigants.' ") (quoting *Landis v. North American Co.*, 299 U.S. 248, 254 (1936)). Plaintiff's requested relief will be denied.

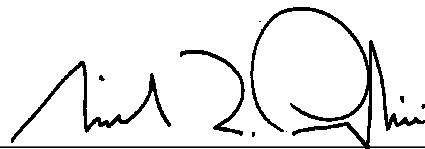
Plaintiff also filed a motion for free filing fee, in response to the order entered on September 24, 2009, which required him to make a statutory partial payment toward the filing fee. In the motion Plaintiff concedes that he has funds in his inmate account but states that he "is not able to pay the amount." There is no constitutional violation in requiring an inmate to choose between prison purchases and litigation, *see Shabazz v. Parsons*, 127 F.3d 1246, 1248-49 (10th Cir. 1997),

although the Court may not dismiss a complaint “on the grounds of poverty,” *Bell v. Whethel*, No. 97-6126, 1997 WL 639319, at *1 (10th Cir. Oct. 14, 1997). The Court will deny Plaintiff’s motion.

Because Plaintiff has failed to satisfy statutory conditions, the Court will require him to make the payment or show cause why his complaint should not be dismissed. Failure to comply with this Order may result in dismissal of the complaint without further notice.

IT IS THEREFORE ORDERED that Plaintiff’s letter (Doc. 6), construed herein as a motion to correct docket, is DENIED;

IT IS FURTHER ORDERED that Plaintiff’s Motion For Free Filing Fee (Doc. 8) is DENIED; and, within fourteen (14) days from entry of this Order, Plaintiff must make the payment required by the order of September 24, 2009, or show cause why his complaint should not be dismissed.

A handwritten signature in black ink, appearing to read 'Richard L. Puglisi', written over a horizontal line.

Richard L. Puglisi
UNITED STATES MAGISTRATE JUDGE